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Promotion and protection of the rights of children: promotion and protection of the rights of children

Report of the Special Representative of the Secretary-General for Children and Armed Conflict

Summary

The present report highlights a number of critical themes and emerging issues of concern, such as the effects of terrorism and counter-terrorism measures on children, rampant sexual violence against girls and boys in situations of armed conflict, the special vulnerabilities of children and families displaced within States, the urgent need for education for children in emergency situations, and the need to ensure avenues for the meaningful contribution of children and youth to national processes. Addressing such diverse concerns represents a significant challenge for Member States, as well as United Nations actors and civil society organizations.

The report also focuses on mainstreaming the issue of children and armed conflict in United Nations system-wide activities and within United Nations entities as a central strategy to ensure the practical application of standards and norms for the protection of children. Significant progress has been made in mainstreaming this issue in the United Nations system, particularly in the peace and security sector. Yet overall, the progress made remains fragile and must be further consolidated and institutionalized.

The report offers a number of recommendations to address some of the emerging issues of concern for children and to promote the fundamental and consistent integration of children and armed conflict concerns in United Nations institutions, policies and programmes.

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 62/141, in which the Assembly requested the Special Representative of the Secretary-General for Children and Armed Conflict to continue to submit reports to it and to the Human Rights Council on the progress achieved and the remaining challenges on the children and armed conflict agenda. This is the twelfth report submitted to the Assembly since the establishment of the mandate of the Special Representative in Assembly resolution 51/77.

2. Significant advances have been made on the agenda for children and armed conflict in the past decade. Nonetheless, grave violations against children in conflict situations continue to be committed by both State and non-State parties to the conflict. This is all the more disturbing given the fact that comprehensive and robust normative frameworks are in place for their protection. The practical application of universal standards of protection and care for children remains the central challenge of the international community, national authorities and United Nations entities and their partners.

3. The first part of the present report (section II) outlines the priority issues and emerging concerns related to children affected by armed conflict. The second part (section III) examines the progress that has been made in mainstreaming the issue of children and armed conflict within the United Nations system as a critical element of a more comprehensive and concerted response to this problem. The third part (section IV) of the report highlights some of the main commitments emerging from the field visits of the Special Representative during the reporting period.

II. Critical themes and emerging issues of concern

4. The following issues highlight the growing concerns of the child protection community over the past year as events unfolded in different situations of armed conflict around the world.

A. The changing nature of conflict

5. In the past decade, a number of United Nations reports, including the study by Graca Machel on the impact of armed conflict on children (A/51/306 and Add.1) and its review report (see A/62/228), have noted with concern the fact that the character and tactics of war are changing. These changes have created new and unprecedented threats to children. In many of the new wars, especially in Asia and Africa, conflict remains internal and takes place in peripheral areas where access is difficult. In particular, children and other vulnerable segments of the civilian population are increasingly becoming the direct targets of violence. In addition to thousands of children being killed and wounded as a direct result of fighting, many more children in conflict contexts die from malnutrition and disease. Other fundamental rights, such as education and recreation, are also being denied children in situations of armed conflict.

6. The Machel study also underscored the emerging concerns of "asset wars", where economic interests commercialize and prolong conflict. The misuse of natural

resources, such as timber, coltan and diamonds, or the scarcity of resources, such as water, fuel conflict in many situations of concern. Such conflicts often become self-perpetuating and protracted, and intensify the vulnerability of children.

Terrorism and counter-terrorism

7. In other parts of the world, conflict is defined in the context of terrorism and counter-terrorism measures. In a number of situations, children are increasingly being used to perpetrate terrorist attacks on civilians and civilian locations. Children are being recruited and trained as suicide bombers, in blatant violation of international law, and used as human shields or decoys in suicide car bombings, or to transport improvised explosive devices. As a result, counter-terrorism measures greatly affect children, including through arrest and detention of children for reasons such as alleged participation in terrorist activities or other forms of association with terrorist groups. Legal and practical safeguards, such as regular and independent monitoring of detention centres, have often been disregarded. Many of these children are detained for extended periods of time and without due process provisions, in violation of international standards of juvenile justice. Sometimes these children are incarcerated for relatively minor offences such as stone-throwing or demonstrating. In detention, they sometimes suffer beatings and physical and psychological torture. Precision aerial bombardment and other types of military operation also result in what is termed "collateral damage" where children are often the victims.

Diversity of armed groups

8. The character of armed actors involved in contemporary conflicts is increasingly difficult to define. The array of labels for parties to conflict, such as government forces, armed political opposition forces, rebel groups or liberation movements, community-level auto-defence militias, paramilitary and proxy forces, illegal armed groups and criminal gangs reflect their diverse motivations and character. Their objectives and organizational structures are more fluid than ever. And quite often there is a grey area, where political motivations coincide with criminal intent.

9. It is clear, however, that in many situations of concern armed actors, regardless of their character or motivations, are systematically perpetrating grave violations, including recruiting and using children, killing and maiming them, committing rape and other sexual violence against them, and abducting them. For the children suffering such violations, the precise definition of the nature of the perpetrators is irrelevant. Therefore, it is of paramount importance that the protection agenda does not become paralysed in the process of defining and categorizing armed groups. The emphasis must remain on the violations being committed against children, critical remedial measures and the accountability of perpetrators.

B. The root causes of child soldiering

10. While international norms are increasingly being implemented to combat the recruitment and use of children in armed conflict, more attention is also being directed towards studying the root causes of child soldiering and devising effective prevention programmes.

11. Children are often abducted and forced into association with armed groups, but sometimes they appear to join willingly. Poverty, illiteracy and discrimination, as well as a lack of formal education and livelihood opportunities, are some of the drivers of "voluntary" recruitment. Protection, survival, desire for revenge or a sense of belonging due to loss of home and family members also sometimes compel children to join armed groups. For some, the lack of legitimate avenues for political dissent and participation or ideologies of nationalism or ethnic identity become powerful motivating factors.

12. Children are considered an economically efficient alternative to adult combatants. They are easily indoctrinated, manipulated and influenced by heroic notions of masculinity and power. The length of a conflict, the proximity of refugee camps or internally displaced persons' settlements to conflict zones, the failed reintegration of children and the impunity of those who recruit and use children are additional contributing factors.

13. However, in spite of the multiple push and pull factors that may exist, ultimately it is the decision of individual commanders to recruit children. Therefore, ensuring that violators are held accountable carries a critical deterrent effect. Concerted emphasis must be maintained on fighting the impunity of perpetrators. In addition, the reasons underlying the motivations of children themselves for engaging in armed conflict should be analysed in greater detail, taking into consideration the socio-economic contexts that shape and constrain their lives, and the political-security environment that conditions their responses.

C. Accountability for acts committed by children during armed conflict

14. Based on the current practice of ad hoc tribunals, the Special Court for Sierra Leone and the International Criminal Court, there is an emerging consensus that children below the age of 18 should not be prosecuted for war crimes and crimes against humanity by international courts.

15. International law recognizes the need to provide children with special protection because of their particular vulnerability, and considers children's immaturity if they commit offences during armed conflict. In addition, international law prohibits the imposition of the death penalty for any offences committed by children under the age of 18 years. Children should be considered primarily as victims, and decisions to prosecute a child or not must be guided by the principle of their best interests, bearing in mind the child's emotional, mental and intellectual maturity, the extent of their moral culpability and the possibility of alternative accountability and reconciliation mechanisms focusing on their rehabilitation. If a child is to be tried in any jurisdiction for crimes, their treatment should adhere to international human rights standards specific to the rights of the child, in particular with regard to the age of criminal responsibility, fair trials, sentencing and detention. Similarly, national courts trying children for international crimes must also uphold their rights in accordance with international standards for juvenile justice.

D. Sexual violence against girls and boys

16. Widespread and systematic rape and sexual violence against girls is increasingly a characteristic of conflict. Such violations are often perpetrated in a rule of law vacuum as a result of conflict, and there often exists a prevailing culture of impunity for such crimes. In many cases, the data on incidents, magnitude and scope of sexual violence is unreliable or non-existent due to deep cultural taboos surrounding such crimes, fear of reprisal of victims and their families and a range of other factors. Precise information, critical for combating impunity and for programmatic response, is difficult to obtain or verify. Sexual violence appears to be especially prevalent in and around refugee camps and settlements for internally displaced populations.

17. Although cases of sexual violence against boys are sometimes reported, insufficient attention is paid to this particular dimension, and such violations remain largely undocumented. Some research indicates that boys are especially vulnerable to sexual violence during military operations in civilian areas or during military conscription or abduction into paramilitary forces. They are also especially vulnerable in refugee and internally displaced settings and in detention.

18. Emphasis must be placed on fighting impunity for rape and other sexual violence through rigorous and systematic investigation and prosecution of such crimes at the national level and an increased focus on this problem by international justice mechanisms. At the national level, comprehensive initiatives to address the issue of sexual violence are required, and national ownership of such programmes is critical. Donors, the United Nations system and non-governmental organizations should accord priority to providing technical and financial support to national authorities for the preparation and implementation of national strategies to address sexual violence.

E. Child protection dialogue with non-State actors

19. The cessation of violations against children in situations of armed conflict and the provision of programmes for victims depends in large part on the establishment of a child protection dialogue with State and non-State parties to conflict. It is critical that Governments, where necessary, facilitate such dialogue between non-State actors and the United Nations, without prejudice to the political and legal status of such groups. Notwithstanding the sensitivity of some Governments to dialogue with non-State actors, the child protection imperative should supersede political considerations. Collectively, we should be guided by a principle of "exceptional consideration for children" as the most vulnerable segment of the population that deserves unconditional protection.

F. Internally displaced children

20. A priority area for advocacy and action should be the plight of internally displaced children, who face particular vulnerabilities in the context of fleeing from conflict, as they are exposed to acute danger in terms of their physical security. They are often at risk of separation from their families and are vulnerable to trafficking, as well as sexual and other forms of grave abuse, and they lack access to

food, health services and education. The recruitment of children into armed groups continues to be a pressing issue for displaced families and communities. Children separated from their families during displacement are especially at risk of being recruited by armed groups. A protracted displacement situation, extended stays in camps, the proximity of camps to conflict zones and, in some cases, the infiltration of armed elements into settlements and their presence there places children at a heightened risk of recruitment. Some of the key remedial priorities include the creation of registration systems for separated and unaccompanied children and an emphasis on family tracing and reunification programmes. Special attention must also be given to the care and protection of children with critical medical conditions or disabilities. In addition, children formerly associated with armed groups should be granted legal protection and access to timely rehabilitation and reintegration programmes. In line with the Guiding Principles on Internal Displacement, the Special Representative has outlined the fundamental rights and guarantees for internally displaced children, appended as annex I to the present report. Advocacy and programming around these basic elements should be made a priority and further enhanced.

G. Availability of small arms and the effect of cluster munitions and landmines

21. It is increasingly recognized that the availability of small arms and light weapons exacerbates the impact of conflict on children. In his thematic Report on small arms to the Security Council (S/2008/258), the Secretary-General noted that the vast majority of direct conflict deaths were attributable to the use of small arms and that civilian populations — increasingly also children — bore the brunt of armed conflict more than ever.

22. Governments must ensure stricter control over the use of conventional arms and work towards concluding an arms trade treaty that establishes effective, accountable and transparent systems for all international weapons transfers. This will help to ensure that arms and ammunition are not transferred to countries where children are known to be, or may potentially be, recruited or used in hostilities. The Machel study and review report focus attention on the impact of small arms and light weapons, landmines and unexploded ordnance, and stress the obligation of States to protect children in this regard. A more robust protection framework is required that includes stronger legislation and programmatic response to address the causes of the proliferation of small arms and light weapons and its effects on children.

23. In his report on small arms, the Secretary-General recommends that the Peacebuilding Commission, the Office for Disarmament Affairs and the Special Representative of the Secretary-General for Children and Armed Conflict increase cooperation in addressing the full spectrum of impacts of small arms and light weapons on children.

H. Education in emergencies

24. Protecting schools and providing education in emergency and conflict contexts should remain an utmost priority for the international community. Increasingly,

students, teachers and education infrastructures are being deliberately targeted. In some situations, the fear of being attacked on their way to school or at school deprives girls of their basic right to learn and shape their future. In other places, schools are used as recruiting grounds and entire classes have been abducted to be used as child combatants.

25. Under international humanitarian law, attacks on schools are designated as a grave human rights violation. Such attacks are also one of the six grave violations against children in armed conflict that are being monitored and reported to the Security Council. Enhancing accountability mechanisms for such crimes is key to ensuring that schools remain safe havens and zones of peace. Education is also a central tool for conflict prevention and post-conflict recovery. Addressing education in peace agreements and in their implementation is a fundamental step towards reinforcing security, gender equality and economic development.

I. Child participation

26. The Machel study and review report emphasized the need to ensure that children have a right to be heard in determining the policies and programmes of which they are the primary beneficiaries. It is essential to invest in infrastructure that facilitates this right, such as children's parliaments and grass-roots associations. The durability of peace in the longer term also depends on giving children and youth opportunities to express their perspectives and concerns in peace processes, post-conflict recovery and development priority-setting. Child participation should also be ensured in transitional justice mechanisms.

III. Mainstreaming the issue of children and armed conflict in United Nations system institutions, entities, policies and programmes

27. The Special Representative has emphasized the priority of shifting collective emphasis from the development of protection norms and standards, which are comprehensive and robust due to the concerted efforts made by the international community over several years, to their practical application and implementation on the ground. The General Assembly and the Security Council have led the way in enabling more concerted action by the United Nations system as a whole on children affected by armed conflict.

28. In a practical sense, the establishment of mechanisms for more systematic and targeted monitoring and reporting of grave violations represents a critical element in this regard. This must be complemented by more consistent mainstreaming of children and armed conflict issues into the priorities and programmes of key entities and processes within the United Nations and beyond.

29. Within the United Nations system, significant policy and operational gains have begun to take hold within institutions and in key institutional processes of the United Nations. These gains remain fragile, however, and could dissipate unless they are further consolidated and institutionalized.

30. Four key criteria may be used by the United Nations system to gauge and ensure internal mainstreaming within relevant institutions:

(a) Commitment to and promotion of children and armed conflict concerns by senior management;

(b) Integration of children and armed conflict concerns into policies, strategic plans and programmes;

(c) Adequacy of in-house knowledge, expertise and training, to inform policies, strategies and day-to-day operations;

(d) Allocation of adequate resources to ensure the above.

31. In order to better determine how and where to focus energies and resources and ensure more effective collaboration, all relevant United Nations entities must periodically assess progress against benchmarks, including the ones highlighted above.

A. Integration of children and armed conflict as a key priority of the General Assembly and the Security Council

32. The General Assembly has consistently emphasized the issue of children and armed conflict since the release of the study by Graca Machel in 1996 on the impact of armed conflict on children. In direct response to key recommendations in the study, the Assembly mandated, through resolution 51/77 on the rights of the child, the appointment of a Special Representative on the impact of armed conflict on children as the United Nations system focal point on the issue, to foster international cooperation and ensure a more concerted and coordinated response to the issue of children and armed conflict. The Assembly has consistently renewed the mandate of the Special Representative since 1997, thereby acting as the principal enabler of a concerted United Nations children and armed conflict agenda. The annual omnibus resolution on the rights of the child of the General Assembly has included a specific section on children and armed conflict since 1997.

33. The Security Council formally placed the issue of children affected by armed conflict on its agenda through resolution 1261 (1999), signalling that violations against children in situations of armed conflict constitute a legitimate threat to international peace and security. Since 1999, the Security Council has adopted six further resolutions on this issue: 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005) and 1882 (2009).

34. Through these resolutions, the Security Council has increasingly operationalized its engagement on children in situations of armed conflict, including by mandating the Secretary-General to list parties to conflict who commit grave violations against children, instituting a mechanism to monitor and report on such violations, and establishing a dedicated Working Group on Children and Armed Conflict, consisting of all members of the Council, to review information emanating from the monitoring mechanism and to recommend remedial measures to the Council. In its latest resolution, 1882 (2009), the Council designated the killing and maiming of children, as well as rape and other sexual violence, as critical priorities and has called on parties to armed conflict to prepare and implement action plans to address these violations. In the new resolution, the Council also calls for enhanced

communication and information-sharing between its Working Group on Children and Armed Conflict and relevant Security Council sanctions committees as a step towards targeted measures against persistent perpetrators.

35. Beyond its thematic resolutions on children and armed conflict, the Security Council continues to incorporate child protection mandates in its country-specific resolutions. The Council has also stipulated the inclusion of a specific section on child protection in all country-specific reports to the Council. Since 2003, the number of reports of the Secretary-General that have incorporated substantive references to the protection of children has significantly increased.

B. United Nations executive coordination mechanisms

36. The executive coordination mechanisms of the United Nations are important forums for advocating efforts to mainstream the issue of children and armed conflict in the United Nations system. The Special Representative continues to consistently raise pertinent issues on the children and armed conflict agenda in the Senior Management Group, the Policy Committee, the Executive Committee on Peace and Security and the Executive Committee on Humanitarian Affairs.

37. It is critical that specific concerns related to children and armed conflict are more consistently reflected, in particular in the Policy Committee briefing papers prepared by various United Nations departments and in the decisions of the Policy Committee, which are based on these documents.

C. Progress made in the integration of the protection and rights of children affected by armed conflict into peace processes and peace agreements

38. The Security Council resolutions on children and armed conflict cited above call on all parties concerned to ensure that the protection, rights and well-being of children affected by armed conflict are specifically integrated into all peace processes and peace agreements, including, where appropriate, provisions relating to the release and reintegration of children associated with armed forces or armed groups. Since 2000, child rights and protection provisions have been incorporated into numerous agreements, accords and declarations. Some of the major themes articulated in these agreements include provisions to end the recruitment and use of children by armed forces or armed groups and ensure their immediate release and reintegration, to combat sexual violence and to address child detention and special provisions for internally displaced children. Annex II to the present report lists the peace agreements since 2000 that have explicitly included concerns related to children affected by armed conflict.

39. It is important to examine the future role that United Nations mediators, negotiators and heads of missions may play in addressing child protection issues during peace negotiations and in peace agreements as a way of ensuring that this critical issue is carried forward as a priority into the post-conflict peace consolidation and peacebuilding phases.

D. Integration of children and armed conflict into United Nations peacekeeping operations

40. The Department of Peacekeeping Operations has significantly expanded the incorporation of children's issues into peacekeeping operations, including child rights and protection in training for peacekeepers and the deployment of child protection expertise in peacekeeping missions. There are currently over 60 child protection advisers and officers in seven peacekeeping missions, whose role includes ensuring that all components of peacekeeping operations adopt a child-conscious approach in their work and that these concerns are addressed in the overall strategy of the mission. Child protection advisers of the Department also monitor the situation of children in armed conflict, including monitoring and reporting on grave violations under Security Council resolutions 1612 (2005) and 1882 (2009), engaging in dialogue with parties to conflict to develop action plans to end the recruitment and use of children by armed forces or armed groups and other child rights violations, and advocating on politically sensitive issues, thereby supporting operational partners who may be unable to do so at the risk of jeopardizing their programmes on the ground.

41. The Department of Peacekeeping Operations and the United Nations Children's Fund (UNICEF) co-chair the country task forces on monitoring and reporting in 7 of the 15 countries implementing the monitoring and reporting mechanism, which are the main forums for the preparation of the country reports of the Secretary-General on children and armed conflict and follow-up of Security Council conclusions.

Department of Peacekeeping Operations/Department of Field Support child protection policy directive

42. On 1 June 2009, the Department of Peacekeeping Operations, jointly with the Department of Field Support, adopted the child protection policy directive of 1 June 2009 on mainstreaming the protection, rights and well-being of children affected by armed conflict within United Nations peacekeeping operations. The policy further institutionalizes the role and responsibility of the Department of Peacekeeping Operations to protect children pursuant to Security Council resolutions. It also defines partnerships and coordination with other United Nations child protection actors on the ground. The main priorities specified in the policy derive from specific provisions of Council resolutions on children and armed conflict, namely: (a) monitoring and reporting on grave child rights violations; (b) establishing child protection dialogue with parties to conflict to obtain explicit commitments to address violations; (c) provision of training for all peacekeeping personnel; and (d) mainstreaming of children and armed conflict concerns in the work of the military, police and civilian components of peacekeeping operations.

Progress made in the provision of training for United Nations peacekeeping personnel in international law relevant to children

43. In accordance with Security Council resolutions 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004) and 1612 (2005), systematic training is conducted for all peacekeeping military, police and civilian personnel and training units on child rights and protection. The training focuses on the impact of armed conflict on children and the applicable international legal norms and standards for

their protection. Training also focuses on monitoring and reporting of grave violations to ensure that the United Nations system is better able to leverage the extensive presence of military, police and civilian peacekeeping personnel for monitoring purposes.

44. Given the large numbers of peacekeeping personnel and their continual rotation every six months particularly of military and police components, the provision of systematic training represents one of the most resource-intensive activities of peacekeeping child protection units. In some situations child protection advisers have sought to establish training partnerships with non-governmental organizations, such as Save the Children, who have competency and a proven track record in providing child rights and protection training to military personnel. Such partnerships carry great potential to more effectively fulfil the Council's request as regards training, but thus far such initiatives have been largely ad hoc.

45. It is anticipated that the adoption of the Department of Peacekeeping Operations child protection policy will provide a foundation for building on existing experience in peacekeeper training and developing more consistent practices in this regard. A number of Governments have expressed their commitment to supporting the implementation of the Department's child protection policy, particularly as it relates to training priorities.

E. Internal mainstreaming in key United Nations entities

46. Member States have called on all relevant United Nations entities to take specific measures to ensure the systematic mainstreaming of children and armed conflict issues within their respective institutions, offices and departments and on the ground, and to enhance, within their respective mandates, their cooperation and coordination when addressing the protection of children in armed conflict. Over the past several years, the agenda for children and armed conflict has been strengthened through a more coordinated and collaborative effort between United Nations entities and their partners.

47. As the mandated lead agency of the United Nations for children, UNICEF has in recent years made significant investments at headquarters and regional and country levels to systematically mainstream children and armed conflict issues into programme strategies and responses, build capacity with government and child protection partners and advocate for children's rights. UNICEF has deepened its capacity at headquarters to focus on the development of policies and systems for child protection in emergencies, including support for the following areas: prevention of recruitment; release and reintegration of children associated with armed forces and groups; unaccompanied and separated minors; sexual and gender-based violence; landmines and small arms; psychosocial support in emergencies; inter-agency child protection information management system; global coordination of child protection (lead) and gender-based violence (co-lead with the United Nations Population Fund) under the protection cluster; related training and capacity-building of partners; and the monitoring and reporting mechanism.

48. UNICEF and the Office of the Special Representative co-chair the Steering Committee on monitoring and reporting and provide technical support and guidance to the countries implementing the mechanism, as well as other conflict-affected countries. At the country level, UNICEF co-chairs the country task forces on

monitoring and reporting in all 15 of the countries implementing the mechanism and works with partners to monitor, report and respond to grave violations against children, including engaging Governments and non-State parties to the conflict in the development, implementation and follow-up of action plans and other initiatives to enhance accountability for, prevention of, and responses to violations. In most countries affected by armed conflict, UNICEF has gradually dedicated human, financial and material resources towards the issue of children and armed conflict and to develop national governmental capacity.

49. The field presences of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and its deployment of human rights monitors to peacekeeping missions is an important contribution to the monitoring and reporting of violations against children. OHCHR has played a critical role in monitoring and reporting on grave violations against children in its Uganda and Nepal operations, for instance. OHCHR also continues to encourage the mainstreaming of child rights issues into the work of human rights mechanisms, including the recent universal periodic review of the Human Rights Council, and treaty bodies such as the Committee on the Rights of the Child, as well as special procedures. In recent years, several treaty bodies and special procedures have devoted specific attention to children affected by armed conflict. OHCHR is currently developing a policy tool on the establishment of national commissions of inquiry for the investigation of serious and gross human rights violations, including violations of the rights of children during conflict and post-conflict and in peacetime. Since the entry into force in 2002 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the number of ratifications by Member States has increased to 128 countries.

50. The Office of the United Nations High Commissioner for Refugees (UNHCR) has played a major role in drawing attention to the needs and acute vulnerabilities of refugee and internally displaced children. UNHCR has recently developed and rolled out an age, gender and diversity mainstreaming strategy, which includes provisions for mainstreaming the protection and rights of children into UNHCR programmes and prevention and response measures. Child-specific indicators, such as on child recruitment, are now included in the UNHCR standards and indicators reporting tools. UNHCR has also strengthened its child protection capacity through the deployment of child protection officers to some of its operations on the ground. UNHCR is currently finalizing a guidance document on Security Council resolution 1612 (2005) and the monitoring and reporting mechanism, with a particular focus on the role of UNHCR in the mechanism at both the country and headquarters level.

51. The International Labour Organization (ILO), primarily through its International Programme on the Elimination of Child Labour, works to facilitate the socio-economic reintegration of former child soldiers, as well as the prevention of the recruitment of children. In recent years, ILO and its key stakeholders, including Governments and employer and worker organizations have implemented an interregional project to prevent the recruitment of children as soldiers and support the reintegration of former child soldiers in Burundi, Colombia, Congo, the Democratic Republic of the Congo, Rwanda, the Philippines and Sri Lanka. ILO is currently co-chairing the United Nations sub-group on reintegration, which is responsible for addressing the reintegration needs of children formerly associated with armed forces and groups. In 2008, ILO allocated additional human and financial resources to develop methods and tools to address the specific violation of

children involved in the worst forms of child labour in conflict and post-conflict situations.

52. The Department of Political Affairs has developed, with the Office of the Special Representative, specific guidance on child protection for United Nations mediators, which has been included in its "UN Peacemaker" database. The Department has also recently revised its operational guidance note on disarmament, demobilization and reintegration to integrate the consideration of children and armed conflict issues that facilitate or impede peace processes, and identified the release of children as a factor that promotes confidence between parties to conflict in its guidance on confidence-building measures. The Department's newly established United Nations mediation focal point system also seeks to ensure that children and armed conflict issues are taken into account early in the strategic thinking and planning stages of a peace process.

53. Some efforts have also been made by special political missions of the Department of Political Affairs to incorporate the protection of children and armed conflict into all aspects of their missions and mandates. The United Nations Assistance Mission for Iraq established a multi-agency protection sector outcome team which, together with the Government of Iraq, has developed initiatives for child protection capacity-building in communities, legislative reform, advocacy and strengthening protection and justice for detained children in Iraq. In December 2008, the Office of the United Nations Special Coordinator for Lebanon established a coordination group that aims to develop a comprehensive strategy on the protection and rights of children affected by armed conflict in Lebanon, and determine how best to use the political advocacy of the Special Coordinator for Lebanon to advance issues related to children and armed conflict. The United Nations Political Office for Somalia is currently developing its human rights work and is committed to ensuring that child rights issues are integrated into the overall work of the mission. Child protection advisers have been incorporated into the United Nations Mission in Nepal and are monitoring and reporting on grave violations and advocating for the rights and needs of children in the peace process and for their release and reintegration. There remain, however, a number of critical situations of concern for children in United Nations political missions that have not yet incorporated child protection advisers, including the mission in Somalia.

54. Other United Nations entities with an important role to play in the protection of children affected by armed conflict include the United Nations Development Programme (UNDP), the Office for the Coordination of Humanitarian Affairs, the United Nations Development Fund for Women (UNIFEM), UNFPA, the Office for Disarmament Affairs and the Peacebuilding Commission. These entities should also continue to reinforce their efforts to mainstream concerns relating to children and armed conflict into their policies, priorities and programmes.

F. Integration of the issue of children and armed conflict into key United Nations-led institutional processes

55. Because they suffer disproportionately in situations of conflict, children deserve special consideration in programmes for rehabilitation and poverty alleviation, and in social inclusion strategies, humanitarian appeals and other funding frameworks. In particular, priority attention should be given to ensure that

concerns relating to children and armed conflict are more consistently and explicitly reflected in four such United Nations-led institutional processes: (a) the consolidated appeals process; (b) the poverty reduction strategy paper process; (c) the common country assessment-United Nations Development Assistance Framework; and (d) the United Nations Peacebuilding Fund.

56. The Special Representative has recommended that inter-agency consultations, including with field-level representatives, be conducted to generate consensus and recommendations on actions to be undertaken for the systematic integration of issues relating to children and armed conflict into these frameworks.

IV. Field visits by the Special Representative

57. Visits by the Special Representative to situations of concern remain a central element of the advocacy strategy of the Office. Through such visits, the Special Representative makes a first-hand assessment of the situation of children; engages in dialogue with national authorities and non-State parties to gain specific commitments to address grave child rights violations; and facilitates more effective cooperation among all stakeholders, including United Nations actors, national authorities, donors and the diplomatic community, non-governmental organizations and other representatives of civil society. The visits are often framed by the recommendations of the reports of the Secretary-General on children and armed conflict and the formal conclusions and recommendations of the Security Council Working Group on Children and Armed Conflict adopted on the basis of those reports.

58. Such visits bring high-level visibility to the plight of children affected by armed conflict and have generated specific commitments by State and non-State parties to address violations. Where appropriate, the visits also serve as an opportunity to highlight national child protection efforts. As an independent moral voice for children, it is critical for the Special Representative to engage in dialogue with both national actors and non-State parties, without prejudice to their political or legal status.

59. Some of the main results from these visits include: (a) implementation of the monitoring and reporting mechanism; (b) designation of focal points within Government infrastructures to coordinate issues related to children and armed conflict, such as the rehabilitation and reintegration of children associated with armed groups and forces; (c) agreement on modalities of access by child protection actors to military camps, training facilities and detention centres for monitoring and verification of compliance; (d) commitments for the release of children associated with armed forces and groups and the release of children detained for alleged association with armed groups; (e) inclusion of child protection provisions in peace agreements; and (f) strengthened coordination and collaboration of United Nations partners and other stakeholders on the ground around issues related to children and armed conflict.

60. During the reporting period, the Special Representative carried out field missions to Chad and the Central African Republic (May 2008), Nepal and the Philippines (December 2008), the occupied Palestinian territory and Israel (February 2009) and the Democratic Republic of Congo (April 2009). Some of the key commitments received from Governments and other parties to conflict during these

missions are highlighted below. The critical challenge is to ensure the timely implementation of the commitments that have been made, which is the responsibility of United Nations partners with an operational mandate and a presence on the ground.

A. Chad and the Central African Republic

61. During her mission to the Central African Republic, the Special Representative engaged in discussions with the Armée populaire pour la restauration de la République et de la démocratie (APRD), securing their commitment to release all children associated with their forces. On 7 July 2009, the APRD followed through with their commitment and released all 182 children, between the ages of 10 and 17, to UNICEF. Almost all of these children have been reunited with their families.

62. The Government of Chad committed to allow United Nations teams to verify of detention centres, training camps and military facilities; release as a matter of priority children associated with armed groups held in detention; and establish an inter-ministerial task force to coordinate and ensure the effective reintegration of children.

B. Nepal

63. In follow-up to previous commitments made by the Government of Nepal, the Special Representative undertook a mission to cement the release of the children identified among the Maoist forces by the United Nations verification teams. During her visit, the then Prime Minister of Nepal, Pushpa Kamal Dahal, committed to the release of 2,973 children from the Maoist New People's Army cantonments by the end of February 2009.

64. Although the United Nations has actively advocated and engaged with the Government of Nepal in follow-up to this and previous commitments of the Government of Nepal, the agreed release is still pending.

C. Philippines

65. Following the interaction between the Special Representative and the leadership of the Moro Islamic Liberation Front (MILF) during her visit to the Philippines, MILF committed to negotiate an action plan with the United Nations to halt the recruitment and use of children and to ensure their separation and subsequent return to civilian life. The action plan was completed and signed by the United Nations country team in the Philippines and MILF leadership on 31 July 2009. The Government of the Philippines welcomed the action plan.

66. The Special Representative also interacted with the Government of the Philippines on the issue of action against those members of the Philippines security forces allegedly responsible for grave violations against children and welcomed the Government's nomination of high-level focal points within the Armed Forces of the Philippines to address these issues.

D. Democratic Republic of the Congo

67. The Government and the high command of the Forces armées de la République démocratique du Congo (FARDC) committed to entering into dialogue with the United Nations for the preparation of a time-bound action plan for the prevention of child recruitment and the identification and release of those children already present in integrated FARDC brigades. They also committed to ensuring further efforts to combat impunity for grave violations, including through more rigorous investigation and prosecution and by ensuring that perpetrators do not escape justice.

68. The FARDC high command agreed to facilitate the access of United Nations actors to the rapid integration process of rebel groups and the National Army in the East and the South to ensure the identification and release of children.

69. The Government also committed to creating specialized units of the National Police to address crimes of sexual violence against women and children, and to ensure national ownership and lead the implementation of a comprehensive national strategy on sexual violence.

V. Recommendations

70. **All relevant United Nations offices, departments and agencies should take specific measures to ensure the mainstreaming of children and armed conflict issues within their respective institutions, policies and activities, and should undertake periodic assessments of progress in this regard. They should also designate focal points at the senior level, and ensure allocation of adequate financial and human resources for priorities relating to children and armed conflict at headquarters and on the ground.**

71. **Member States should ensure that specific provisions for the protection of children continue to be included in the mandates of all United Nations peacekeeping operations, political missions and peacebuilding missions. The relevant United Nations departments should ensure that child protection personnel are deployed where such missions are established, and that mission planning and technical assessment exercises routinely include child protection expertise.**

72. **The recently adopted child protection policy directive represents a crucial step towards institutionalizing the role and responsibilities of United Nations peacekeeping operations in terms of child protection. Member States are encouraged to give priority to supporting the Departments in implementing the policy.**

73. **Member States are urged to ensure that children and armed conflict concerns are consistently reflected in peace processes and peace agreements so that this issue is carried forward as a priority into the post-conflict peace consolidation and peacebuilding phases. Relevant United Nations departments should ensure that mediators, negotiators and heads of mission receive adequate guidance in this regard.**

74. **In spite of the heinous crimes that characterize terrorist action, Member States are urged to ensure that any measures taken to combat terrorism are consistent with the obligations of States under international law.**

75. **Member States should ensure that children who, under international law, are accused of crimes allegedly committed while they were associated with armed forces or groups are considered primarily as victims, and that they are treated in accordance with international law and other relevant standards on juvenile justice, and within a framework of restorative justice and social rehabilitation. Neither capital punishment nor life imprisonment without the possibility of release should be imposed for offences committed by persons under 18 years of age. The detention of children should be used as a last resort and for the shortest possible period of time.**

76. **Contact between the United Nations and non-State parties for dialogue towards the implementation of specific commitments to protect and release children should be encouraged in the best interest of the children involved.**

77. **Member States and relevant United Nations entities should give priority to education as an integral aspect of emergency and humanitarian planning and assistance.**

78. **Member States are encouraged to implement the "Rights and guarantees for internally displaced children", as outlined in Annex I.**

79. **National authorities in situations of concern are urged to develop and implement comprehensive national strategies to address sexual violence against children. Such strategies may include concerted awareness-raising campaigns; training and capacity-building at the national and community levels for enhanced protection and victim assistance; and rigorous and timely investigation and prosecution of crimes of sexual violence.**

80. **Member States are encouraged to foster opportunities for the participation of children and young people in peace processes and injustice, truth and reconciliation processes. Emphasis should be placed on support for child and youth organizations, centres, networks and activities, secondary and tertiary education, livelihood schemes and leadership opportunities.**

Annex I

Rights and guarantees for internally displaced children*

Internally displaced children:

(a) Enjoy the same rights and freedoms as those not displaced in their country. Children shall not subject to discrimination as a result of their displacement, regardless of whether or not they are living in camps;

(b) Have the right to relevant documentation. Competent authorities shall issue internally displaced children all documents necessary for the full enjoyment and exercise of their legal rights;

(c) Have the right to be reunited with their family. Every effort must be made to reunite separated children with their immediate family or relatives, failing which they may be placed with foster families. Siblings are to remain together and institutional care is to be avoided;

(d) Have the right to life, dignity and physical, mental and moral integrity;

(e) Shall be guaranteed physical security and the provision of safe places;

(f) Shall be guaranteed that they will be neither recruited nor used nor required nor permitted to take part in hostilities;

(g) Have the right to protection against sexual and gender-based violence by the creation of adequate protective measures to prevent those violations, regardless of whether or not they are living in camps. Mechanisms should be put in place to ensure that procedures are in place to ensure accountability once violations occur and that effective programmes exist for the care of the victim;

(h) Have the right to an adequate standard of living. Competent authorities shall provide internally displaced children with, and ensure safe access to, essential medical services and sanitation, basic shelter, essential food supplies, potable water and appropriate clothing, both during and after armed conflict;

(i) Have the right to education, free and compulsory primary education and the provision of secondary education whenever possible, as education offers a degree of normalcy and stability. Best efforts are to be made to ensure the full and equal participation of boys and girls in educational programmes. Education should be made available both during and after conflict. Education should be an important part of emergency response;

(j) Shall be guaranteed long-term psychosocial and physical recovery and reintegration programmes at the community level to meet their intellectual and emotional needs and to ensure their overall well-being, both during and after armed conflict;

(k) Shall be guaranteed that preventive measures will be taken to protect them from trafficking, forced labour, forced prostitution, sexual exploitation, forced early marriage and illegal adoption;

* Developed by the Special Representative for Children and Armed Conflict as an advocacy tool consistent with the Guiding Principles on Internal Displacement.

(l) Have the right to durable solutions, including the right to return, to integrate at the place of displacement or to resettle elsewhere in the country. Durable solutions must be voluntary, safe and dignified;

(m) Have the right to freedom of movement with their families, including from and within camps;

(n) Have the right to manifest their religion or beliefs with their families and to freely participate in the cultural life of the community;

Furthermore:

(o) Child participation shall be promoted in devising local strategies for recovery and reintegration;

(p) The principle of "the best interest of the child" shall be a primary consideration in all actions concerning children.

Annex II

Peace processes and peace agreements that reflect children and armed conflict concerns:

(a) Agreement on Disarmament, Demobilization and Reintegration between the Government of Uganda and the Lord's Resistance Army/Movement of 29 February 2008;

(b) Acte d'engagement for North Kivu between several armed groups in North Kivu of 23 January 2008;

(c) Acte d'engagement for South Kivu between several armed groups in South Kivu of 23 January 2008;

(d) Pact on Security, Stability and Development in the Great Lakes Region among 11 countries of the Great Lakes Region of 15 December 2006;

(e) Agreement on Monitoring of the Management of Arms and Armies, signed in Nepal on 8 December 2006;

(f) Comprehensive Peace Accord between the Government of Nepal and the Maoist Communist Party of Nepal on 21 November 2006;

(g) Comprehensive Ceasefire Agreement between the Government of Burundi and the Parti pour la libération du peuple hutu-Forces nationales de libération (Palipehutu-FNL) of 7 September 2006;

(h) Darfur Peace Agreement between the Government of the Sudan, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement of 5 May 2006;

(i) Declaration of Principles for the Resolution of the Sudanese Conflict in Darfur between the Government of the Sudan, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement of 5 July 2005;

(j) Agreement on Permanent Ceasefire and Security Arrangements Implementation Modalities during the Pre-Interim and Interim Periods between the Government of the Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) of 31 December 2004;

(k) Dar es Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region among all countries in the Great Lakes region of 20 November 2004;

(l) Protocol on Power Sharing between the Government of the Sudan and the Sudan People's Liberation Movement/Army (SPLM/A) of 26 May 2004;

(m) Transitional Federal Charter of the Somali Republic of February 2004;

(n) Peace Agreement between the Government of Liberia, Liberians United for Reconciliation and Democracy, the Movement for Democracy in Liberia and the political parties of 18 August 2003;

(o) Comprehensive ceasefire agreement between the Forces armées nationales de Côte d'Ivoire (FANCI) and the Forces nouvelles of 3 May 2003;

(p) Inter-Congolese negotiations (Sun City agreement) of 2 April 2003;

(q) Ceasefire agreement between the Transitional Government of Burundi and the Conseil national pour la défense de la democratie — Forces pour la défense de la démocratie of 2 December 2002;

(r) Nuba Mountains Ceasefire Agreement between the Government of the Sudan and the Sudan People's Liberation Movement/Nuba of 19 January 2002;

(s) Arusha Peace and Reconciliation Agreement for Burundi of 28 August 2000.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

The right to adequate housing

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report submitted by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, submitted pursuant to Human Rights Council resolution 6/27.

* A/64/150.

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Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Summary

The present report, submitted in accordance with Human Rights Council resolution 6/27, constitutes the second report to the General Assembly of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

The report discusses how the impacts of climate change have consequences for the fulfilment of the right to adequate housing. The report provides an overview of the scope and severity of climate change, its implications for extreme weather events and its impact on urban and rural areas, including unplanned and unserviced settlements, on human mobility and on small islands and low-lying coastal zones. It also outlines the relevant international human rights frameworks and obligations in connection to the right to housing and discusses the essential role of international cooperation to address the inevitable impacts of climate change. It considers policies on mitigation and adaptation from a human rights perspective to the right to adequate housing. Finally, the Special Rapporteur draws preliminary conclusions on the relationship between climate change and the right to adequate housing and urges States to take a number of measures, including upholding their human rights obligations when mitigating climate change and adapting to its inevitable impacts.

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I. Introduction

1. In December 2007, by its resolution 6/27, the Human Rights Council reviewed and renewed the mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

2. During the presentation of her previous report to the General Assembly (A/63/275), the Special Rapporteur provided her views on the mandate and a programme of work. She expressed her interest in expanding the work of the mandate on a number of issues, including the relation between climate change and the right to adequate housing.

3. The present report is the result of thematic research undertaken, of information collected during a country visit of the Special Rapporteur to Maldives in February 2009 and of knowledge-sharing through participation at conferences and seminars on the topic of climate change and its potential impact on the realization and enjoyment of the right to the highest attainable standard of living, particularly, adequate housing.

4. The aim of the report is not to look at the causes that have produced climate change but at the impact of climate change on the fulfilment of the right to adequate housing, especially in respect of how climate change exacerbates existing vulnerabilities. The report provides an overview of the scope and severity of climate change, its implications for extreme weather events and its possible impact on urban and rural areas, including unplanned and unserviced settlements, on human mobility and on small islands and low-lying coastal zones. The report analyses the relevant international human rights frameworks and obligations in connection with the right to adequate housing. It also explores policies on mitigation and adaptation from a human rights perspective to the right to adequate housing. It concludes with recommendations, in particular for mitigation and adaptation strategies that are being designed and negotiated at local, national and international levels.

II. Overview

5. The Intergovernmental Panel on Climate Change[1] indicated in 2007 that the Earth was warming faster than at any other time in recorded human history. In its fourth assessment report, the Panel affirmed the scientific consensus that global warming was clearly under way, indicating a high likelihood that the rate of warming was greater than at any time over the past 10,000 years.

6. The Panel also concluded that global warming was most likely due to the effects of human activity, primarily fossil fuel use and land use changes that had taken place in particular after the industrial revolution. The concentrations of carbon dioxide in the Earth's atmosphere far exceeded pre-industrial levels as recorded in

[1] The Intergovernmental Panel on Climate Change was established in 1988 by the World Meteorological Organization and the United Nations Environment Programme to assess the information relevant to the scientific basis of the risk of human-induced climate change, its potential impacts and possible response strategies.

polar ice cores dating back 650,000 years.[2] This is already causing a linear warming trend that is twice that of the past 100 years. The 11 years between 1995 and 2006 have been among the 12 warmest years in recorded history, a trend that is causing deep oceans to warm, glaciers to melt and sea levels to rise. If current warming trends are sustained, the Panel estimates that sea levels will rise an additional 0.23 to 0.47 metres, and average temperatures could rise by 6°C before the end of the century.[3]

7. In efforts to meet the challenges posed by a rapidly warming planet, negotiations are currently under way for a new agreement to replace the Kyoto Protocol[4] of the United Nations Framework Convention on Climate Change.[5] This new treaty, to be agreed at the upcoming Conference of the Parties in Copenhagen in December 2009, will seek to effectively mitigate the warming trends while preparing to adapt to the inevitable consequences of climate change.

8. Global warming is prompting longer-lasting droughts and threatening to turn entire regions of the world into deserts. The warming of the Earth's climate is also changing the amount, intensity and frequency of precipitation. This implies more intense and longer-lasting storms and other extreme weather events, as well as a higher risk of flooding and storm damage. While it is impossible to link any specific extreme weather event to changes in the Earth's climate, it has been established that global warming is increasing the severity of storms that often result in disasters.[6] The Panel also found evidence indicating that intense tropical cyclone activity in the North Atlantic had increased since about 1970. The Panel further stated: "it is likely that future tropical cyclones (typhoons and hurricanes) will become more intense, with larger peak and wind speeds and more heavy precipitation associated with ongoing increases of tropical sea surface temperatures".[7]

9. Between 2000 and 2004, a yearly average of 326 climate-related disasters was reported, and some 262 million people were affected, more than double the level in the first half of the 1980s.[8] By means of illustration: the 2005 hurricane season in the Atlantic was the most active on record, producing 27 named storms and killing over 1,600 people. In 2004, a first-ever hurricane battered the southern coast of Brazil.[9] That same year droughts swept across the Horn of Africa and Southern

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[2] Intergovernmental Panel on Climate Change, "Summary for policymakers", a report of Working Group I of the Intergovernmental Panel on Climate Change, 2007.

[3] Intergovernmental Panel on Climate Change, *Climate Change 2007: Impacts, Adaptation and Vulnerability*, contribution of Working Group II to the fourth assessment report of the Panel. Cambridge, United Kingdom, Cambridge University Press, 2007.

[4] FCCC/CP/1997/7/Add.1, decision 1/CP.3, annex.

[5] United Nations, *Treaty Series*, vol. 1771, No. 30822.

[6] National Office of Oceanic and Atmospheric Research, "Global warming and hurricanes", available from http://www.oar.noaa.gov/spotlite/archive/spot_gfdl.html. Last accessed 29 June 2009.

[7] Intergovernmental Panel on Climate Change, Working Group I report, "Summary for policymakers", in *Climate Change 2007: the Physical Science Basis* (Cambridge, United Kingdom, Cambridge University Press), p. 9.

[8] United Nations Development Programme, *Human Development Report 2007/2008. Fighting Climate Change: Human Solidarity in a Divided World* (United Nations Development Programme, 2007).

[9] *Up in smoke? Latin America and the Caribbean: The Threat from Climate Change to the Environment and Human Development*, third report of the Working Group on Climate Change and Development, August 2006.

Africa. In the following year, many countries in those areas experienced extensive flooding. The 2007 monsoon season in South Asia caused intense floods and storms that killed more than 1,000 people in Bangladesh, India, Southern Nepal and Pakistan and displaced more than 14 million people in India and 7 million in Bangladesh. According to the World Food Programme, 57 countries, including 29 in Africa, 19 in Asia and 9 in Latin America were hit with catastrophic floods, droughts and heatwaves.[10]

10. The impacts of extreme weather events will be felt disproportionally in the developing world. Between 1990 and 1998, 94 per cent of the world's 568 major natural disasters, and more than 97 per cent of all natural disaster-related deaths, were in developing countries.[11] Beyond the exposure of many developing countries to weather extremes due to their geographical location, poor countries lack the resources, infrastructure and insurance systems necessary to protect their populations against the effects of those disasters.[8] Between 2000 and 2004, for example, an average of 1 in 19 people living in the developing world was affected by a climate disaster per year, while 1 in 1,500 was affected within member countries of the Organization for Economic Cooperation and Development.[12] Japan is more highly exposed to the risks associated with storms, cyclones and flooding than the Philippines; yet between 2000 and 2004, average disaster-related fatalities amounted to 711 in the Philippines and 66 in Japan.[8]

11. The stakes are high, particularly for the world's poorest people. Extreme weather events and natural disasters threaten a series of essential human rights, particularly for the poorest and most vulnerable populations. They exacerbate disaster risks, both by intensifying climatic and extreme weather hazards as well as by decreasing the ability of people to withstand the impacts and recover from damages.[13]

12. The heaviest impacts affect people who have contributed least to the problem and lack the resilience necessary to survive these changes without major harm. According to a recent report of the United Nations International Strategy for Disaster Reduction secretariat: "Climate change is perhaps the greatest global outcome of environmental inequity since it is driven by the emissions that have brought benefits to affluent individuals and societies[,] yet most of the burdens fall on poorer individuals and societies, with developing countries and their poorest citizens being the most vulnerable".[14] This issue is a fundamental point of focus for the negotiations leading up to the Conference of the Parties in Copenhagen, and must be considered if the full challenges posed by climate change are to be effectively addressed.

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[10] "Global food crisis looms as climate change and fuel shortages bite", 3 November 2007, *The Guardian*, United Kingdom.

[11] John Vidal, "Climate change will overload humanitarian system, warns Oxfam", *The Guardian*, United Kingdom.

[12] Oxfam International, "Climate wrongs and human rights: putting people at the heart of climate change policy", September 2008.

[13] United Nations International Strategy for Disaster Reduction Secretariat, *2009 Global Assessment Report on Disaster Risk Reduction: Risk and Poverty in a Changing Climate: Invest Today for a Safer Tomorrow*, p. 11.

[14] Ibid., p. 10.

III. Climate change and the right to adequate housing

A. Effects of climate change on housing in urban settlements

13. In its third assessment report, the Panel stated that climate change would increase the magnitude and frequency of weather extremes, such as heavy rainstorms, cyclones or hurricanes. These events pose specific risks to cities and smaller settlements.

14. The most direct risks are connected to flooding and landslides, caused by increases in rainfall intensity, sea-level rise and storm surges in coastal areas.[15] This precipitation can overwhelm urban drainage systems and result in floods. Inadequate drainage exacerbates the effects of heavy rainfall, leading to localized flooding and further weakening the already degraded infrastructure. Heavy rainfalls can also overburden sanitation systems and cause contamination of drinking water. When shelters are built in areas susceptible to hazards, such as in floodplains on the banks of rivers or on slopes that pose the risk of erosion and mudslides during heavy rains, the consequences can be devastating.

15. As rainfalls become more irregular or scant, drought is predicted to become more frequent and severe. This phenomenon has an impact on urban systems of water supply. The melting of glaciers is also affecting water storage and resulting in a scarcity of the water supply. This is the case in La Paz, where a water shortage is expected by 2025 and has the potential to affect 2 million people.[16] Increased water stress results in decreased access to water and sanitation and as water sources dry out, people are forced to move further in search of water for drinking, cooking and hygiene. This has a particular impact on women and girls, who are usually responsible for fetching water, with their health and access to education often suffering as a result.

16. The extent to which extreme weather events affect urban settlements is not only related to their locations but also to the quality and level of infrastructure and service provision: "For any city, the scale of the risk from these extreme weather events is also much influenced by the quality of housing and infrastructure in that city and the level of preparedness among the city's population and key emergency services".[17] Poor communities can be especially vulnerable, in particular those concentrated in unplanned and unserviced settlements within urban areas, which tend to be built on hazardous sites and to be susceptible to a number of climate change-related disasters. Living in a situation of poverty and exclusion, they lack adequate resources to protect themselves. Climate change-related effects aggravate existing risks and vulnerabilities.

17. The majority of the urban population is concentrated — and will be even more so in the coming decades — in low- and middle-income countries, which have most of their urban populations living at greater risk in unplanned and unserviced

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[15] Intergovernmental Panel on Climate Change, "Industry, settlement and society", in *Climate Change 2007: Impacts, Adaptation and Vulnerability*, p. 361.

[16] Questionnaire sent by Habitat International Coalition on climate change and the right to adequate housing, available from www.hic-al.org. Information provided by Red Habitat Bolivia.

[17] David Satterthwaite et al., Human Settlements Discussion Paper Series, Theme: Climate Change and Cities 1, *Adapting to Climate Change in Urban Areas: The Possibilities and Constraints in Low- and Middle-Income Nations* (International Institute for Environment and Development).

settlements. According to the United Nations Human Settlements Programme (UN-Habitat), there are about 1 billion slum-dwellers in the world today. The majority of these, more than 930 million, live in developing countries, where they constitute 42 per cent of the urban population. The proportion of slum-dwellers is particularly high in sub-Saharan Africa (72 per cent of the urban population) and in Southern Asia (59 per cent).[18] Disasters caused by extreme-weather are not simply a result of natural events but also reflect a failure of development policies.

18. These informal settlements are usually located in the most hazardous sites within cities, at risk from flooding or landslides. For instance, large concentrations of illegal settlements can be seen on hills prone to landslides (La Paz; Caracas; and Bamenda, Cameroon), in deep ravines (Guatemala City) or on land prone to flooding (Guayaquil, Ecuador; Recife, Brazil; Monrovia; Lagos, Nigeria; Port Harcourt, Nigeria; Port Moresby; New Delhi; Bangkok; Jakarta; Buenos Aires; Resistencia, Argentina; Bogota; Mumbai, India; Accra; Kumasi, Ghana; and Mombasa, Kenya).[19]

19. The areas exposed to and constantly affected by flooding, landslides and earthquakes still attract poor groups because of cheaper land and housing costs. They are also the only places where they can find accommodation close to their income-earning areas and livelihood opportunities within cities. Low-income groups will face serious constraints in being able to move to less dangerous sites, because of a lack of resources to enable them to move and due to a lack of alternative safer sites that are at the same time affordable and close to their income-earning and human development opportunities.

20. The lack of protective infrastructure and services aggravates human vulnerability to extreme weather-related phenomena: "For instance, it is generally cities with the largest inadequacies in protective infrastructure that have experienced the highest number of flood-related deaths and injuries over the last 25 years".[19] One of the examples is the impact of the lack of waste collection on urban settlements. In research undertaken, the presence of uncollected waste is seen to frequently block streams and drainage channels leading to, or exacerbating, flooding.[20] UN-Habitat reported that a total of 98 per cent of the 211 million people affected by natural disasters during the period from 1991 to 2000 were in developing countries.[21] Consequently, "much of the human cost of extreme weather events in urban centres in low- and middle-income nations comes not from the 'hazard' or the 'disaster event', but from the inadequate provision of protection for urban population (or particular sections of the population) from these".[22]

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[18] UN-Habitat, "Key findings and messages", in *Global report on human settlements 2007: Enhancing Urban Safety and Security*.

[19] Caroline Moser and David Satterthwaite, Human Settlement Discussion Paper Series, Theme: Climate Change and Cities — 3, *Pro-poor climate change adaptation in the urban centres of low- and middle-income countries* (International Institute for Environment and Development, October 2008), p. 9.

[20] UN-Habitat, Global report on human settlements 2011: cities and climate change, chapter 6, case study: Dar es Salaam (forthcoming).

[21] UN-Habitat, *Global report on human settlements 2007*.

[22] David Satterthwaite et al., "Adapting to climate change in urban areas: the possibilities and constraints in low- and middle-income nations" in *Adapting Cities to Climate Change*, Jane Bicknell, David Dodman and David Satterthwaite (eds) (Earthscan, London, 2009), p. 19.

21. When discussing the vulnerability of poor urban populations to climate change impacts, consideration must be given to the most vulnerable groups, such as children. Children may be removed from school in order to work and help to increase the income of their families and the supply of food and water. Schools are also often used as emergency lodging after natural disasters. This is a reality for Saint Louis, Senegal, where after recurrent flooding, the affected population has been moved to schools, thereby reducing the school year and affecting student attendance.[23] Climate change-related effects might also exacerbate the exposure of children to undernutrition and increase their vulnerability to a number of diseases and illnesses, such as malaria.[24] Thus, the common constraints many children already suffer from as a result of poverty are intensified by the related effects and pressures of climate change-induced disasters. Gender inequalities that existed prior to a disaster may also increase.

B. Climate change and human mobility[25]

22. The linkages between climate change and human mobility are complex and not entirely predictable. The Intergovernmental Panel on Climate Change noted in 1990 that the greatest impact of climate change might be on human mobility. While there are no reliable estimates of the numbers of population flows related to climate change, it is clear that climate change-related impacts are already resulting in substantial human mobility. According to the Panel:

> "Estimates of the number of people who may become environmental migrants are, at best, guesswork since (a) migration in areas impacted by climate change are not one-way and permanent, but multi-directional and often temporary or episodic; (b) the reasons for migration are often multiple and complex, and do not relate straightforwardly to climate variability and change; (c) in many cases migration is a longstanding response to seasonal variability in environmental conditions, it also represents a strategy to accumulate wealth or to seek a route out of poverty, a strategy with benefits for both the receiving and original country or region; (d) there are few reliable censuses or surveys in many key parts of the world on which to base such estimates".[26]

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[23] Questionnaire sent by Habitat International Coalition on climate change and the right to an adequate housing, available from www.hic-al.org. Information provided by Environmental Development Action in the Third World.

[24] UNICEF, *Climate Change and Children: A Human Security Challenge* (November 2008), pp. 9-13.

[25] Climate change raises critical questions concerning the legal status of those forced to move within their countries. That issue is not examined in the present report, as it is being considered by the Representative of the Secretary-General on the human rights of internally displaced persons. See, for example, the background paper entitled "Displacement caused by the effects of climate change: who will be affected and what are the gaps in the normative frameworks for their protection?", which was submitted by the Representative of the Secretary-General to the Inter-Agency Standing Committee Working Group at its 71st meeting, held from 18 to 20 June 2008, and has been developed further by the Representative of the Secretary-General in the context of subsequent meetings of the Inter-Agency Standing Committee informal sub-working group on displacement/migration and climate change.

[26] Intergovernmental Panel on Climate Change, "Industry, settlement and society", in *Climate Change 2007: Impacts, Adaptation and Vulnerability*, p. 365.

23. People might move voluntarily, in search of a better life in areas not affected by these phenomena, or forcibly, when threats to life, health, property and livelihoods exist. Some affected people might be evacuated before and during disasters and some of them would be relocated because returning to the original place of residence is not possible or too dangerous. International human rights standards and the right to adequate housing must be respected during any relocation process.

24. In the context of urban and rural areas, climate change will affect such areas with increasingly frequent and hazardous events. The erosion of livelihoods, due partly to environmental degradation, intense storms, floods, droughts, water stress and food scarcity, is already accelerating the rural-urban drift,[27] as farmers migrate due to failing crops and insecure livelihood perspectives.

25. In the Arctic circle and surrounding areas, warmer temperatures are causing the seas to freeze later in the autumn months and the permafrost to thaw. This is affecting the water storage capacity of the glaciers, which used to store water during winter months and feed rivers during summer months. Rapid glacier melt also affects the water supply and increases flooding risks in other parts of the world. This has a great impact on rural agriculture located in river deltas, resulting in the movement of many people.

26. Drought is also a factor that is affecting mobility in rural areas. Studies have demonstrated that desertification is influencing migration in Mexico.[28] Inhabitants of Tlaxcala, an area dependent on rain-fed agriculture, complained of shifting rainfall periods, which generated uncertainty and a decline in crop yields and incomes: "Return migration, and seasonal migration as a livelihood diversification strategy have been documented in this area ... The opportunity for some people to migrate seasonally, send remittances, and return home is an example of migration as an adaptation strategy to deteriorating environmental conditions".[28] Climate change has also had related impacts in West Africa, such as rainfall decreases, land degradation, and violence in the arid and semi-arid areas of Senegal, Mali, Burkina Faso and the Niger. This has "resulted in a rapid intra-country migration southward and a swelling of big cities like Dakar, Bamako, Ouagadougou, Niamey and Kano, [Nigeria]. Estimates for Burkina Faso suggest that close to half of the adult population born there has moved for at least part of the year to coastal states like [Côte d'Ivoire] and Ghana".[29]

27. Disturbances in marine ecosystems and fisheries as well as the deterioration of farmlands due to salt water flooding will jeopardize the access of population to food and to safe drinking water. This phenomenon also generates the movement of people to other areas in search of a better livelihood.

28. Migration can also aggravate economic problems in receiving areas. Many of the people who move to cities will do so as a result of increasingly inadequate

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[27] Annual report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61).

[28] See "In search of shelter: mapping the effects of climate change on human migration and displacement", CARE International; Center for International Earth Science Information Network, Columbia University; United Nations High Commissioner for Refugees, United Nations University Institute for Environment and Human Security; and Social Dimensions of Climate Change, World Bank (May 2009), p. 7.

[29] Ibid., p. 9.

access to sustainable livelihoods and will therefore lack the resources to gain access to adequate housing when moving. These movements will affect urban development in a number of ways, including increasing pressure on urban infrastructure and services. Rapid and unplanned urbanization has serious implications for urban welfare and urban service provision.

29. Many migrants will move to urban slums and informal settlements, living in precarious conditions in hazardous areas. UN-Habitat estimates that in the rapidly expanding slum settlements of Africa, about one third of slum-dwellers have migrated to the cities after being driven off their land by advancing desert frontiers and failing pastoral farming systems.[30]

C. Impact of sea-level rise on housing in small islands and low-lying coastal areas

30. The vulnerability of human settlements to the impacts of climate change can be aggravated by the location of settlements in low-lying coastal areas. "Assets and population in both developed and developing countries are increasingly located in coastal areas, slopes, ravines and other risk-prone regions."[31] More precisely: "Low elevation coastal zones contain 2 per cent of the world's land and 10 per cent of its population, based on estimates for 2000. Of the somewhat more than 600 million people living in the zone, 360 million are urban. This implies an urbanization level of 60 per cent compared to a world urbanization level of slightly less than 50 per cent."[32]

31. In particular, urban centres located in coastal areas will face serious risks as sea-level rise increases exposure to coastal flooding, erosion, rising water tables undermining building foundations and saltwater contamination of ground water. According to the report of the Intergovernmental Panel on Climate Change, many more millions of people are projected to be flooded every year due to sea-level rise by the 2080s. Densely populated and low-lying areas, where adaptive capacity is relatively low and which already face other challenges such as tropical storms or local coastal subsidence, are especially at risk. The numbers affected will be largest in the mega-deltas of Asia and Africa, with small islands being especially vulnerable.[33]

32. Small islands, where almost half a million people live,[12] are particularly vulnerable to rising seas, which threaten to erode coastal dwellings, destroy fisheries and exacerbate inundation and erosion. "Moreover, protection costs for settlement, critical infrastructure, and economic activities that are at risk from sea-

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[30] See statement by the Executive Director of UN-Habitat to the High-level segment of the United Nations Climate Change Conference, United Nations Framework Convention on Climate Change, available from http://www.unhabitat.org/content.asp?cid=5502&catid=550&typeid=8&subMenuId=0.

[31] Intergovernmental Panel on Climate Change, "Industry, settlement and society", in *Climate Change 2007: Impacts, Adaptation and Vulnerability*, p. 372.

[32] Gordon McGranahan, Deborah Balk and Bridget Anderson, "The rising tide: assessing the risks of climate change and human settlements in low-elevation coastal zones", in *Adapting Cities to Climate Change*, Jane Bicknell, David Dodman and David Satterthwaite (eds) (Earthscan, London, 2009), p. 58.

[33] Intergovernmental Panel on Climate Change, "Summary for policymakers", in *Climate Change 2007: Impacts, Adaptation and Vulnerability*, p. 12.

level rise will be burdensome for many small island States. Similarly, tourism — the leading revenue earner in many States — is projected to suffer severe disruption as a consequence of adverse impacts expected to accompany sea-level rise".[34] The process threatens the vital infrastructure and facilities that support the livelihood of island communities.

33. The small islands of Tuvalu, Kiribati and Maldives are particular vulnerable to rising sea levels. In the case of the island State of Tuvalu in the Western Pacific: "Frequent saltwater flooding, accelerated coastal erosion and increasing difficulty growing vegetables and plants are day-to-day challenges. The people of Tuvalu have reluctantly accepted the idea of relocation and have started moving to New Zealand, under the terms of a negotiated migration scheme".[35]

34. In the case of Maldives, geographic and natural characteristics make it particularly fragile to climate change and related problems. A chain of 1,200 islands and coral atolls located in the Indian Ocean, its highest point is only 1.8 metres above sea level. As a low-lying, small island State, Maldives is very vulnerable to the impacts of climate change and associated sea-level rise. The Special Rapporteur emphasized in her preliminary note on her mission to Maldives in February 2009 (A/HRC/10/7/Add.4) that the impact of climate change on the acceleration of coastal erosion, frequency of storms and flooding and the rise of the sea level would clearly have a dramatic impact on the housing and livelihood of many Maldivians. Climate change had aggravated and would further amplify some of the problems linked with Maldives characteristics, including land scarcity and the vulnerability of the islands to natural phenomena. Such changes had an impact on the enjoyment of the right to adequate housing.[36]

IV. Human rights/adequate housing approach to climate change

A. International human rights obligations in the right-to-adequate housing debate

35. The obligation of States to take steps towards the realization of the right to adequate housing for all is laid down in a number of international legally binding human rights instruments. The instruments also form the basis of the mandate of the Special Rapporteur. They include the Universal Declaration of Human Rights; the International Covenant on Economic, Social and Cultural Rights (article 11); the Convention on the Rights of the Child (article 27, para. 3); the non-discrimination provisions found in article 14, paragraph 2 (h), of the Convention on the Elimination of All Forms of Discrimination against Women; article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination; article 43.1 (d) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and article 28 of the Convention on the

[34] Intergovernmental Panel on Climate Change, "Small island States", in *Climate Change 2001: Impacts, Adaptation and Vulnerability*, contribution of Working Group II to the third assessment report (Cambridge, United Kingdom, Cambridge University Press, 2001).

[35] *Human Impact Report: Climate Change: The Anatomy of a Silent Crisis* (Global Humanitarian Forum, Geneva), p. 51.

[36] Further details will be provided in the report of the Special Rapporteur on her mission, to be submitted to the Human Rights Council at its thirteenth session, in March 2010.

Rights of Persons with Disabilities. The right to adequate housing has also been recognized at the regional level, such as in the European Social Charter (1961), the American Declaration of the Rights and Duties of Man (1948), the American Convention on Human Rights (1969), the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador") and the African Charter on Human and Peoples' Rights (1981).

36. States have clear obligations under international human rights law to respect, protect and fulfil the right to adequate housing and to pursue, through international cooperation, global solutions to the global problem of climate change and its impact on housing. It is therefore necessary to take into account international human rights standards to respond to the challenges posed by climate change.

B. International cooperation

37. The most severe impacts of climate change particularly affect countries located in low-lying coastal areas, small island States and areas prone either to flooding or desertification. These areas and their populations already face a number of vulnerabilities to the impacts of global warming. For the regions that face extreme levels of vulnerability and are not in a condition to confront the impact of climate change within their existing base of resources, international support for their adaptation, in order to assist them in investing in increased resilience to climate change, is essential.

38. Industrialized countries have historically contributed most to man-made greenhouse gas emissions. At the same time, the world's poorer regions and countries, which have generally contributed the least to human-induced climate change, are the ones disproportionally affected by warming-driven impacts. The unequal burden of the effects of climate change is recognized in the United Nations Framework Convention on Climate Change,[5] which calls upon States, in article 3, "to protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly the developed country Parties should take the lead in combating climate change and the adverse effects thereof". In article 4, paragraphs 4 and 9, the Convention states that developed country Parties should also support developing countries with the costs of adaptation measures and should take into account their specific needs with regard to funding and transfer of technology. Moreover, the human rights framework complements the Convention "by underlining that 'the human person is the central subject of development' and that international cooperation is not merely a matter of the obligations of a State towards other States but also of the obligations towards individuals".[27]

39. Any effective response to the inevitable effects of climate change furthermore will require cooperation at the international level.[37] This is a necessary response to the disproportionate distribution of the causes and effects of climate change. It is

[37] As the United Nations Deputy High Commissioner for Human Rights stated: "The human rights perspective underlines the need for international cooperation to address the unequal burden falling on those who are least able to carry its weight". Statement delivered at the Human Rights Council Panel Discussion on the relationship between climate change and human rights held on 15 June 2009.

also consistent with the long-standing obligations concerning international assistance and cooperation emphasized in the International Covenant on Economic, Social and Cultural Rights (article 2.1) and Articles 55 and 56 of the Charter of the United Nations. As stated by Kofi Annan in 2000 in his report entitled "We the peoples: the role of the United Nations in the twenty-first century": "In addition to the separate responsibilities each state bears towards its own society, states are, collectively, the custodians of our common life on this planet — a life the citizens of all countries share". Given the global nature of the threat of climate change, internationally coordinated action to assume collective stewardship of the global climate is particularly critical.

40. The World Bank has estimated that adaptation could cost between $4 billion and $37 billion annually. Yet, the resources allocated to the Global Environmental Fund as of September of 2008 totalled only $3.3 billion.[12] In addition, many of the pledges for adaptation assistance have simply represented a portion of existing official development assistance budgets, rather than the allocation of new resources. Given that few countries have yet reached the international aid target of 0.7 per cent gross domestic product, the conflation of funding commitments for adaptation with pledges for regular development assistance programmes by donor countries is problematic.[38] In order for the international community to effectively respond to the urgent need to assist countries and groups of people who are particularly vulnerable to the effects of climate change to adapt in order to minimize harm, commitments towards adaptation assistance should reflect new resources, distinct from funds earmarked for regular development assistance.

41. Funding for adaptation is far from being the most complex challenge ahead. In addressing the development deficit in infrastructure provision, international cooperation projects need to confront technical and cultural challenges. Adaptation projects on climate change cannot simply replicate the hard engineering solutions that have been behind development projects for decades. For instance, to address flooding and erosion on low elevation coastal zones, the usual measures to protect settlements are to build breakwaters, seafront walls and beach defences. Although effective in alleviating the local problems caused by erosion, such protective systems usually transfer erosion further along the coast, causing flooding and losses elsewhere. International cooperation projects must be adapted to local needs and oriented to long-term development goals.

C. Mitigation and climate change: strategies and effects on housing

42. The grave consequences of climate change require decisive action by the international community. "Mitigation", in the context of climate change, refers to efforts aimed at actions and policies that seek to prevent global warming from causing dangerous interference with the climate. While there are several different arenas for possible mitigation action, the world's leading climate scientists have converged towards a threshold for dangerous climate change of a maximum rise in the global average temperature of 2°C above the pre-industrial level. It will require global greenhouse gas emissions to peak before 2015 and to be reduced to

[38] International Council on Human Rights Policy, *Climate Change and Human Rights: A Rough Guide* (Geneva, 2008).

approximately 50 per cent of the current level by the year 2050.[39] Negotiations taking place under the United Nations Framework Convention are currently seeking to define the respective responsibilities of both developing and developed countries in the face of this major goal.

43. To date, the track record for countries complying with their commitment to reduce emissions has been poor. In 1992, the 23 wealthiest countries, home to 14 per cent of the global population and today responsible for 40 per cent of the emissions released into the atmosphere each year, committed to return their collective emissions to 1990 levels by the year 2000. Yet, by 2005, their collective emissions had increased more than 10 per cent above the target levels.[12] If States continue to settle for half-hearted attempts to comply with mitigation goals, the Earth's temperatures will continue to rise.

44. The level of emissions reductions must be sufficient to adequately stabilize the Earth's climate and avoid contributing to further challenges to the enjoyment of human rights, which will otherwise follow. As mentioned earlier in the present report, in order to avoid dangerous climate change, global temperature increases must be kept under 2°C (above pre-industrial levels). A rise in just under 2°C in global temperatures may well be tolerable for societies that enjoy a minimal degree of resilience, flexible infrastructure and adequate baseline conditions of health, housing and income levels. Many of the world's most resource-poor or otherwise vulnerable people face the very real threat of the loss of their homes and means of subsistence due to the increased frequency and intensity of storms, rising sea levels, desertification and drought. For such people, the threshold for an acceptable level of global warming might be arguably lower.[38] A human rights-centred focus on the world's most vulnerable populations would therefore argue for both emissions reductions targets that are sufficiently stringent to avert denial of human rights deriving from climate change and for stronger accountability mechanisms for complying with the targets once they are defined.

45. Human rights standards require all countries to seek to reduce their harmful emissions to the global atmosphere, with a view to reducing their negative effect on the enjoyment of human rights. This requires action at multiple levels. Industrialized countries, according to the United Nations Framework Convention on Climate Change "equity principle" must lead in reducing emissions levels and ensure that they comply with their commitments in this context. Developed countries must also contribute to efforts by developing countries to pursue low-carbon development paths, thereby avoiding new rounds of increases in emissions.

46. Developing countries also have obligations at a national level, in the context of the mitigation of climate change. National development plans must take into account the urgent need to refrain from contributing further to emissions that cause climate change, which requires the design of economic development strategies that avoid excessive reliance on fossil fuels to power their growth.

47. Both developing and developed countries are responsible for ensuring that the measures undertaken are consistent with their human rights obligations. For example, without adequate human rights safeguards, mitigation measures related to

[39] Intergovernmental Panel on Climate Change, *Climate Change 2007: Mitigation of Climate Change*, contribution of Working Group III to the fourth assessment report of the Panel (Cambridge, United Kingdom, Cambridge University Press, 2007), p. 173.

the development of alternative sources of energy, such as hydroelectric dams, may result in human rights violations. While such measures may aim to promote development and mitigate climate change, their impacts on the rights of people situated near project sites have in many cases been a subject of concern. Large dam projects around the world have resulted in the displacement of communities from their traditional lands.[40] Forced evictions and the displacement of communities within the context of efforts partly aimed at mitigating climate change have thus sometimes led to violations of the right to adequate housing.

48. Mitigation strategies in developed countries include the mobilization of renewable, decentralized energy devices and technologies. New building standards have been adopted to reduce the need for artificial cooling and heating and to promote the concept of energy-plus housing, which refers to houses that have the capacity not only to provide energy for their own consumption but also to generate a surplus that can be used for other purposes. Although such new technologies are paths to mitigate greenhouse emissions, a number of people living in developed countries and most urban dwellers in developing countries lack the resources to buy those technologies and to refurbish their houses to meet the new housing standards.[41]

49. International human rights mandates contain obligations for States to respect the rights of their populations and to provide protection against processes or practices that threaten those rights. Domestically, this requires States to pursue strategies aimed at mitigating climate change, while ensuring that they do not contribute to other rights violations.

50. Human rights mandates also require the participation of groups that stand to be affected in the design and implementation of mitigation measures. Informed and effective participation, in turn, requires that information about the mitigation targets and decisions related to those goals are managed transparently.[42] The principle of participation in the context of mitigation initiatives should be implemented to ensure that those who stand to be most directly affected have a say in its design and implementation, which could help anticipate, and thus avert, new rights violations that could result from the measure under discussion. Human rights standards would also require the existence of institutional forms of redress for grievances, compensation in response to inevitable damages and an evaluation of the distributional impacts of projects and effects.

D. Adapting to climate change: effects on housing

1. Disaster prevention and risk-reduction actions

51. A human rights approach has much to offer towards adaptation to climate change and reduction of the risks posed by natural disasters. While some natural disasters are unavoidable, much can be done to avoid their negative impacts on human lives and human rights. Of particular importance are measures to strengthen

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[40] Presentation by the International Forum of Indigenous Peoples on Climate Change to the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol.

[41] See Heirinch Boll Stiftung, "Urban futures 2030", 2009.

[42] Submission by the Forest Peoples Programme, available from http://unfccc.int/resource/docs/2009/smsn/ngo/104.pdf.

the resilience and capacity to adapt to climate change of individuals and groups most vulnerable to the impacts of natural disasters. Examples of projects aimed at disaster risk reduction include conducting risk assessments in urban planning, rural development projects and the design of housing.

52. Adaptation measures to climate change need to include an assessment of the areas most at risk and the particularly vulnerable groups within the population. Normally, the most effective adaptation is to establish the necessary infrastructure that may prevent extreme weather events from becoming disasters. Most of the settlements at high risk of suffering the related consequences of extreme weather events can reduce the risk by improving building quality and providing infrastructure and services. It is clear that such measures may be constrained by a lack of funding and capacity.

53. Warning information must be communicated to all neighbourhoods at risk in order to allow dwellers to seek protection and to take risk reduction actions. Successful examples include efforts undertaken in Latin America, where Government provision of early warning and support for immediate pre-disaster action has contributed towards limiting damages. In Cuba, in 2004, hundreds of thousands of people were evacuated as Hurricane Charley approached, and international press reports suggested that although over $1 billion worth of damage had been caused, including 70,000 houses damaged, only four or five people had died. Various measures had been taken in Central America, partly in response to the devastation caused by Hurricane Mitch in 1998, which had affected over 1.2 million people.[43] For instance, in Nicaragua, in 2000, the Government created the National System of Prevention, Mitigation and Attention to Disasters that integrates different Government levels, social actors and municipal and regional committees for risk prevention and mitigation, with a clear focus on risk management.

54. The human rights obligation to reduce disaster risks and vulnerabilities, for example, by setting up alarm and evacuation systems, has been addressed by the European Court of Human Rights. According to its decision in the case *Budayeva and Others v. Russia*,[44] if a disaster is foreseeable and the State is able to prevent ensuing threats to life and property, it has to take appropriate action in conformity with its human rights obligations under the right-to-life and/or the protection of privacy and property.[45]

2. Resettlement

55. People may be temporarily displaced for short periods of time due to climate change-related disasters, such as hurricanes, storms and floods, and be able to return to their original homes once the event ends. In such cases, temporary relocation must last only as long as absolutely necessary and all displaced persons should have the right to return to their homes without discrimination.

56. All options must be evaluated before proceeding with resettlement plans. States may designate a high-risk zone and prohibit the return to that area only "if the

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[43] Caroline Moser and David Satterthwaite, Human Settlement Discussion Paper Series, Theme: Climate Change and Cities — 3, p. 22.

[44] *Budayeva and Others v. Russia*, European Court of Human Rights, No. 15339/02.

[45] The Court referred to obligations under the right to life and property, but clearly the same argument would apply to the right to adequate housing.

area of return is indeed an area with high and persistent risks for life or security, the remaining resources are inadequate for survival of returnees, the enjoyment of basic human rights cannot be guaranteed, all other available adaptation measures are exhausted, and the situation in the area of return can no longer be alleviated by protective measures".[46] Of particular concern are some Government policies, adopted in the context of post-disaster situations, which did not allow affected low-income persons to return to their original areas, which were then converted into areas for higher-income residential, commercial or industrial use. One example of this is the post-tsunami coastal buffer zone established in some countries, forcing the relocation of villages, disrupting livelihoods and generating social tensions, while tourist businesses expanded their operations into the "vacant" land areas. A comparably large coastal zone, wherein all rebuilding was to be banned, was also proposed for parts of other countries after the tsunami.[17]

57. The affected population should be consulted and fully involved during any process of relocation and resettlement. Permanent relocation should never result in homelessness. Alternative accommodation (or the necessary subsidy or cash payments) should be provided, as required by international human rights standards, to those who would not be otherwise able to access adequate housing. The criteria recognized for adequacy of housing also apply in those circumstances and include: legal security of tenure, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility for disadvantaged groups, access to employment options, health-care services, schools, childcare centres and other social facilities, whether in rural or urban areas and culturally adequate housing.[47] Relocation areas must also be safe from natural disasters. Therefore an evaluation of the area should be undertaken in consultation with the affected population.

58. The alternative sites offered to the affected population must be adequate and not be too far from their income-earning opportunities. This will avoid dependence on the use of long-distance transport for work, which is essential to prevent adaptation measures resulting in an increase in greenhouse gas emissions and, thus, undermine mitigation.

59. In the context of resettlement, particular consideration should be given to the needs of women. Women generally assume the responsibility for child and domestic care, such as getting food, fuel and water, which can become more onerous in resettlements situations. They also encounter a number of problems related to lack of tenure and property rights and they are frequently ignored in the process of reconstruction and rebuilding of livelihoods.[48]

60. In the rebuilding process, poorer groups have more limited capacity to adapt. They normally lack insurance protection and receive less support from the State. They must be involved in all discussions concerning reconstruction processes and must be supported directly if conditions cannot be created to ensure that they can

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[46] Office of the United Nations High Commissioner for Refugees, "Forced displacement in the context of climate change: challenges for States under international law", 2009.

[47] General Comment No. 4: The right to adequate housing (art. 11 (1)) of the Covenant, adopted by the Committee on Economic, Social and Cultural Rights in 1991.

[48] Caroline Moser and David Satterthwaite, Human Settlement Discussion Paper Series, Theme: Climate Change and Cities — 3, p. 12.

obtain, on their own, appropriate access to adequate housing and livelihood. Local skills should also be taken into consideration and enhanced.

61. The resettlement process should be seen as an opportunity to address short and longer term development issues, contributing to poverty reduction. The consequences of extreme weather disasters are also a failure of development, rather than simply natural events. Climate-change adaptation measures will also affect traditional urban infrastructure concerns such as housing. It also recognizes the social dimensions of the adaptation policies and the need to involve all actors, including individuals, households and communities, in defining and implementing the policies.

3. Participation and empowerment

62. The people who are most vulnerable to the impacts of floods, droughts and storms are frequently the same people who already live in poverty and lack guarantees for the full realization of their rights. The measures undertaken by States to respond to climate change also, in some cases, present particular challenges for the full realization of their rights.

63. The informed participation of people in the development of national — and local-level responses aimed at adapting to the effects of climate change requires efforts to build the capacity of national populations to take part in such decisions through public awareness and mobilization. Once such capacity is in place, communities and civil society organizations will be more empowered to monitor and participate in the development of national and local adaptation strategies and ensure that they benefit those who most require the support. This approach will ensure that the people whose rights are most directly threatened by the impacts of climate change, as well as by the responses undertaken, become central authors in the implementation of urban planning initiatives and projects aimed at the development of new infrastructures. The participation of the beneficiaries of adaptation projects in the design and implementation of the projects, and the leading role of local governments in such projects, will therefore increase the likelihood of the governments being more responsive to human rights vulnerabilities and of being better positioned to effectively strengthen the resilience of communities, homes and infrastructure systems.

64. In the undertaking of adaptation projects, human rights standards and obligations would therefore call for the consultation and participation of concerned communities, gender-sensitive project designs, the recognition of local knowledge for special attention to be paid to marginalized groups and those who face discrimination and exclusion. These initiatives must, furthermore, be culturally adequate[49] and avoid contributing to the violation of other human rights. Care should also be taken in such measures to anticipate the potential for the projects to exacerbate the marginalization of different groups or coincide with potential conflict triggers. In that context, adaptation assistance should be made accessible to both rural and city dwellers, and across all similarly affected geographical regions of a

[49] An example is the case of Saint-Louis, Senegal, following recurrent inundations of the cemetery, the local government decided to construct protection walls instead of moving its location, due to cultural sensitivity. Questionnaire sent by Habitat International Coalition on climate change and the right to an adequate housing, available from www.hic-al.org. Information provided by Environmental Development Action in the Third World.

country. When possible, the projects should offer broad benefits across population groups. In other cases, adaptation assistance must be tailored to ensure that the benefits reach the people who are often most vulnerable to discrimination, including indigenous peoples and ethnic minorities, women and people with disabilities.[50]

V. Conclusions and recommendations

65. **Climate change-related impacts have a range of implications for the effective implementation of the human right to adequate housing. The implications will be severe, particularly for low-income groups and those living in countries that lack the resources, infrastructure and capacity necessary to protect their populations.**

66. **The Special Rapporteur believes that urban areas are key players both in the generation of greenhouse gases and in strategies to reduce emissions, especially in decreasing dependence upon carbon-based fuels. Moreover, there is a need for urgent action to reduce the vulnerability of urban dwellers to the impact of climate change.**

67. **The most vulnerable to the impacts of intense storms, floods and droughts are frequently those who already live in poverty and whose human rights are less well protected. Hundreds of millions of urban dwellers live in slums, which are usually located in the most hazardous sites within cities, at risk from the direct and indirect impacts of climate change. Slums lack the basic infrastructure and services necessary to protect their dwellers from environmental disasters.**

68. **The effects of climate change are disproportionately distributed. The world's poorest people and nations, who have generally contributed the least to man-made greenhouse emissions, are those most affected by the impact of global warming.**

69. **The challenges posed by climate change — and the range of issues raised in the present report — will require further analysis and the Special Rapporteur will continue to monitor the situation. However, she would like to offer some preliminary recommendations for the consideration of the General Assembly.**

70. **States must comply with their commitments to the global atmosphere by reducing their harmful warming emissions. Industrialized countries must lead in reducing emissions levels and support developing countries in pursuing low-carbon development paths.**

71. **States have an obligation to employ measures to mitigate climate change and adapt to its inevitable impacts. At the same time, States must uphold their human rights obligations in all areas of action, including with regard to mitigation and adaptation projects and measures. They should also ensure that measures intended to protect people from the effects of climate change do not result in the unintended violation of other human rights.**

[50] German Watch, Brot für die Welt, and Diakonie, *Climate Change, Food Security and the Right to Adequate Food* (Stuttgart, October 2008).

72. An effective response to address the effects of climate change requires international cooperation. Some affected regions already face extreme levels of vulnerability and are not able to confront climate change impacts within their existing resources; so they therefore depend upon international support for adaptation.

73. When planning and implementing mitigation and adaptation projects, the consultation and participation of concerned communities in decision-making must be ensured; projects must be gender-sensitive, and local knowledge recognized. Adaptation projects should not rely on technologies not adapted to local environments.

74. Climate change adaptation efforts should give priority to the needs of the most vulnerable and start by identifying the measures to be introduced for their protection. This includes installing protective infrastructure, supporting buildings of better quality, through technical support and appropriate finance systems, and assisting those who live in the most dangerous sites to move to safer sites. In this context, access to affordable and well-located land for the urban poor is essential in order to avoid further unplanned settlement expansions or settling the poor far away from income-earning or human development opportunities.

75. The Special Rapporteur supports resettlement plans only as an alternative to be used in extreme circumstances where protection of residents cannot be guaranteed in areas proven to be unsafe. During all relocation stages, human rights standards concerning adequacy of housing must be respected and decision-making must involve all affected groups.

76. The human consequences of extreme-weather disasters reflect a failure of development policies and adaptation measures rather than only natural events. Therefore, reconstruction processes should be seen as an opportunity to address short- and longer-term development problems, contributing to poverty reduction and strengthening the effective enjoyment of human rights.

77. The Special Rapporteur considers that climate change represents an opportunity for reflection and debate on how to improve housing systems, policies and programmes so as to ensure adequate housing for all. She intends to continue exploring considerations on the right to adequate housing, which should be integrated in all efforts to deal with large-scale population resettlement and in prevention and reconstruction efforts in the context of natural disasters. She would welcome inputs and discussion concerning the future work of the mandate in those areas.